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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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10/591,377

05/24/2007

Pamela C. Iraneta

60326US(49991)

8061

48990

7590

06/18/2010

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EXAMINER

THERKORN, ERNEST G

ART UNIT

PAPER NUMBER

1797

MAIL DATE

DELIVERY MODE

06/18/2010

PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary	Application No. 10/591,377	Applicant(s) IRANETA ET AL.	
	Examiner Ernest G. Therkorn	Art Unit 1797	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 10 June 2010.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-11, 39, 40, 42, 86, 87, 118, 148, 181, 212 and 237-263 is/are pending in the application.
- 4a) Of the above claim(s) 3, 42, 86, 87, 118, 148, 181, 212, 258, 259 and 261-263 is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1, 2, 4-11, 39, 40, 237-257 and 260 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____ |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

Claims 1, 2, 4-11, 237-257, and 260 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. The phrase “the frit has a density of at least 50%” renders the claims indefinite. It is not clear what the metes and bounds of “secondary particles” are. Claim 10 is further indefinite because HastaloyTM and TeflonTM are trademarks. Claims 238-240 and 245-246 are further considered to be rendered indefinite by the term “grade media”. Page 2, lines 14-25 of the specification indicates that phrase is the nominal particle retention rating and not the actual particle retention rating. A fair reading of page 3, lines 1-17 of the specification indicates that there are supports rated to retain .5 micron particles that are not able to retain even 2 micron particles. As such, it is not clear what is meant by the “grade media” because they do not correlate to actual observations. Claims 247-248 and 252-253 are considered to be further indefinite because they refer to the composition of the packing material. However, the packing materials are not a part of the frit. As such, the claims are indefinite because the packing material may never be present or may be changed. It is not clear what structure is added, if any, in claim 260 by the phrase “configured as an in-line filter”. If it adds structure, it most likely will be withdrawn from consideration as being drawn to a non-elected invention in the next office action.

Claim 39 is rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. The phrase “wherein the frit is oriented with respect to a flow direction through the tubular chamber” renders the claims indefinite because it

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contradicts the intended use nature of the preamble. If the frit were truly oriented, the claim would be withdrawn from consideration as being drawn to a non-elected invention. It is not clear what the metes and bounds of "secondary particles" are.

Claim 40 is rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. It is not clear what the metes and bounds of "secondary particles" are.

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 1, 2, 4-11, 39, 40, 237-257, and 260 are rejected under 35 U.S.C. 103(a) as being unpatentable over Mott (U.S. Patent No. 4,399,032) in view of Tajima (Japan Patent No. 2004177180) and PTO Translation No. 10-378177180 of Japan Patent No. 2004177180. Tajima (Japan Patent No. 2004177180) and PTO Translation No. 10-378177180 of Japan Patent No. 2004177180 are considered to be a single reference. At best, the claims differ from Mott (U.S. Patent No. 4,399,032) in reciting use of secondary particles. PTO Translation No. 10-378177180 of Japan Patent No. 2004177180 (paragraphs 21, 22, and 28) discloses that use of particles inside the pores of a porous stainless steel disc retains packing agents that are 1 micron in size and prevents clogging. It would have been obvious to use secondary particles in Mott (U.S. Patent No. 4,399,032) because PTO Translation No. 10-378177180 of Japan Patent

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No. 2004177180 (paragraphs 21, 22, and 28) discloses that use of particles inside the pores of a porous stainless steel disc retains packing agents that are 1 micron in size and prevents clogging.

Claim 237 is rejected under 35 U.S.C. 103(a) as being unpatentable over Mott (U.S. Patent No. 4,399,032) in view of Tajima (Japan Patent No. 2004177180) and PTO Translation No. 10-378177180 of Japan Patent No. 2004177180 as applied to claims 1, 2, 4-11, 39, 40, and 237-257 above, and further in view of Shalon (U.S. Patent No. 4,719,011). At best, the claim differs from Mott (U.S. Patent No. 4,399,032) in view of Tajima (Japan Patent No. 2004177180) and PTO Translation No. 10-378177180 of Japan Patent No. 2004177180 in reciting the use of 316 stainless steel. Shalon (U.S. Patent No. 4,719,011) (column 13, lines 62-65) discloses it is preferable to use 316 stainless steel as a frit material because it is resistant to various solvents, mild buffers, acids, and bases and all organic acids and bases. It would have been obvious to use 316 stainless steel in Mott (U.S. Patent No. 4,399,032) in view of Tajima (Japan Patent No. 2004177180) and PTO Translation No. 10-378177180 of Japan Patent No. 2004177180 because Shalon (U.S. Patent No. 4,719,011) (column 13, lines 62-65) discloses it is preferable to use 316 stainless steel as a frit material because it is resistant to various solvents, mild buffers, acids, and bases and all organic acids and bases.

Claims 258 and 259 have been withdrawn as being directed to column claims.

Claims 261-263 have been withdrawn as being directed to system claims.

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The remarks urge that examining the additional inventions and additional species would not be a serious burden on the examiner. However, the additional searching and different issues of patentability would be an enormous burden on the examiner. As such, the restriction requirement and the election of species requirements have been reconsidered, deemed proper, and made final for the reasons of record.

Any inquiry concerning this communication should be directed to E. Therkorn at telephone number (571) 272-1149. The official fax number is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

/Ernest G. Therkorn/
Ernest G. Therkorn
Primary Examiner
Art Unit 1797

EGT
June 16, 2010